

deposition question or any other discovery device, that plaintiff's or defendants' attorneys classification of information, whether it be in a document or in a response to an interrogatory or a

2. "Confidential" information, as used herein, means any type or

under the terms of this Confidentiality Stipulation and Order ("Order").

written notice, designate any non-public document, material or information as "Confidential" written notice, designate any non-public document, material or information as "Confidential"

1. In connection with discovery proceedings in this action, any party may, by

parties to this action and their respective counsel that:

IT IS HEREBY STIPULATED AND AGREED by and between each of the

NOW, THEREFORE:

or may be of a confidential nature as defined herein;

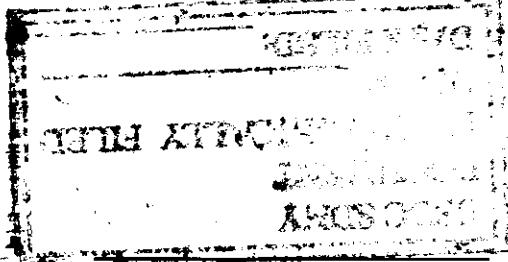
WHEREAS, the parties acknowledge that such documents and other materials are

WHEREAS, documents will be exchanged between the parties; and

New York, are engaging in discovery; and

Procedure and the Local Civil Rules of the United States District Court, Southern District of

WHEREAS, the parties to this action, pursuant to the Federal Rules of Civil



Defendants:

Plaintiff:

-against-
LORTIZA MELENDEZ,
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

07 Civ. 8094 (KMK) (GAY)

J. Anthony, Jr.
J. Anthony, Jr.

“Persons,” who are defined to consist solely of:

not be disclosed or made available by the party receiving such information except to “Qualified designates as “Confidential,” including any photocopies, or information derived therefrom, shall

5. Documents (including portions thereof), material or information indicated by the producing party.

bound multi-page document shall so designate all pages of such document, unless otherwise “Confidential” prior to their production. Stamping such a legend on the cover or top page of any as “Confidential” or by stamping the documents, material or information with the legend production or as soon thereafter as practicable, specifically identifying the documents or material counsel for the party receiving such documents, material or information at the time of their designated “Confidential” may be so designated either by furnishing a separate written notice to refer to any of the foregoing.

purposes of this Order, and any papers, including court papers, which quote from, summarize or thereto; any other physical objects or things, as may be appropriate for the implementation of the or by agreement; deposition transcripts produced in connection with this action and any exhibits documents produced or served by plaintiff or defendants, whether pursuant to any rule, subpoena or admissions, requests for the production of documents and responses thereto, and any other but not be limited to: interrogatory questions and answers and exhibits thereto, demands to admit 3. Documents, material or information covered by this Order shall include, produced.

designate as “Confidential,” including documents designated as confidential that were previously

designated "Confidential" pursuant to the terms hereof shall be advised that the documents

8. Each Qualified Person given access to documents, material or information

Order:

Order indicate the parties' intention that they be, and hereby are, bound to the terms of this

7. The signatures of plaintiff's attorney and defendants' attorneys to this

include such non-parties.

be bound by the terms of this Order. References to a "party" or "parties" herein shall also provide testimony, documents or information in such discovery proceedings and who agrees to

6. The provisions of this Order also shall apply to any non-party who

i. a consented to mediator.

h. witness, to the extent counsel reasonably deems necessary for the prosecution, defense or settlement of this action; and

g. where necessary, actual or potential deposition or trial witness who have been identified as deposition or trial witnesses or whom counsel (or a party) have a good faith basis to believe will be actual or potential deposition or trial witness in this action; or

f. outside consultants or expert witnesses who are being used for the purpose of assisting counsel in their case;

e. a person referenced in or in anyway the subject of the materials to the extent counsel reasonably deems necessary for the prosecution, defense or settlement of this action;

d. the author, addressee(s), other recipient(s), or other person(s) having independent knowledge of the information contained in the materials to the extent counsel reasonably deems necessary for the prosecution, defense or settlement of this action;

c. attorneys, paralegals and staff personnel working on this case;

b. the parties;

a. The Court, (including, but not limited, to court reporters, persons operating video equipment at depositions, and any special master or mediator appointed by the Court or agreed to by the parties);

Court to resolve the dispute.

first to resolve such dispute in good faith on an informal basis, and following that, may ask the designation by the parties' attorneys of any information as "Confidential," the parties will try the designation as "Confidential." The parties disagree at any stage of these proceedings with

10. In the event that the parties disagree at any stage of these proceedings with

properly classified as "Confidential."

deemed an admission by any party that any particular information, or category of information, is deemed an admission by any party that any particular information, or category of information, is information as "Confidential" nor shall anything contained in this Stipulation and Order be information as "Confidential" nor shall anything contained in this Stipulation and Order be deemed a waiver by any party of any challenges it has to another party's designation of shall be deemed a waiver by any party of any challenges it has to another party's designation of permissible under the Federal Rules of Civil Procedure. Nothing in this Stipulation and Order respecitive rights to object to the production of such information on any of the grounds procedure will be subject to the terms and conditions of this Order. The parties reserve their deposition questions, or any other methods of discovery authorized by the Federal Rules of Civil parties, whether in response to interrogatories, requests for production of documents, oral deposition questions to interrogatories, requests for production of documents, oral deposition questions to interrogatories, requests for production of documents, oral

9. All "Confidential" information properly sought and disclosed by the

belief exists that Confidentiality has been breached.

Certification. Opposing counsel may request an inspection of said Certification(s) if a good faith attempt of Court. The signed Certification must be maintained by counsel obtaining such that, if there is any unauthorized disclosure of the Confidential information, he or she may be in Certification attached as Appendix A; and (iii) inform the individual signing the Certification information shall: (i) show the individual a copy of this Order; (ii) have that individual sign the materials to any of the persons identified in items 5(d)-(i), counsel seeking to show the material or information are being disclosed pursuant to and subject to the terms of this Order and may not be disclosed other than pursuant to its terms. Prior to providing copies of any such

documents, material or information designated as "Confidential" and in the possession of

15. At the conclusion of these proceedings (including appeals, if any), all

exclusively for the purposes of preparing for and conducting this action and none other.

information derived therefrom, shall be used by the persons receiving them solely and

14. Documents, material or information designated as "Confidential," or

possible, only confidential portions of filings with the Court shall be filed under seal.

information, shall be filed under seal and kept under seal until further order of the Court. Where

pleadings, motions or other papers filed with the Court disclosing any such confidential

"Confidential" are to be presented to the Court such documents, material or information and any

13. In the event documents, material or information designated as

inadvertent production.

Federal Rules of Civil Procedure, and no party shall be held to have waived any rights by such

privileged or protected from discovery as work product within the meaning of Rule 26 of the

document, material or information shall be without prejudice to any claim that such material is

12. The inadvertent or unintentional disclosure of any "Confidential"

information shall be "Confidential."

"Confidential" designation and the Court may consider that fact in deciding whether such

designation may cite the fact that the information was previously produced without the

relating thereto or on the same or related subject matter. However, a party opposing such a

confidentiality, either as to the specific information disclosed or as to any other information

disclosure, shall not be deemed a waiver in whole or in part of that party's claim of

"Confidential" documents, material or information that was not so designated at the time of

11. The inadvertent or unintentional disclosure by plaintiff or defendants of

understanding of all provisions contained herein.

17. The undersigned represent that this Order has been entered into with a full understanding of the resolution by the Court of any such dispute.

the terms of this Order pending the resolution by the Court of any such dispute, either party may ask the Court to resolve the dispute. The parties agree to abide by agreement, either party may ask the Court to resolve the dispute. In the event that the parties are unable to reach treatment of "Confidential" material at trial. In the event that the parties are unable to reach

16. The parties agree to consult before trial, in good faith, regarding the within thirty days, the clerk may dispose of them.

within thirty days of the conclusion of any continuing jurisdiction of the Court. Parties failing to comply with this shall be notified by the clerk that they fail to retrieve the sealed records thirty days of the conclusion of any continuing jurisdiction of the Court. Parties failing to submit them (1) within ninety days after a final disposition of the appeal, or (2) within (2) if an appeal is taken, within thirty days after final disposition of the appeal, or (3) within that effect. Sealed records that have been filed with the clerk shall be removed by the party be destroyed and the counsel destroying such documents will provide a written representation to If such documents contain privileged information or attorney work product, such documents will documents shall not be used in any other judicial or other proceeding or for any other purposes. shall be returned to the parties' respective counsel, and the information contained in said summaries constituting work product, or used in preparation for litigation, or as exhibits at trial, Order, together with any and all copies, extracts and summaries thereof (other than extracts and counsel, or any other person who has received such documents pursuant to the provisions of this

Dated: August 26, 2008

United States Magistrate Judge
Honorable George A. Mathis

SO ORDERED:

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250 Park Avenue
Ann L. Moscow, Esq.

By: Stephen Bergstein, Esq.
Stephen Bergstein, Esq.

BERGSTEIN & ULLRICH, LLP

New York, New York
August 18, 2008

Pending its approval by the Court.

18. The undersigned agree to be bound by the provisions of this Order

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